Supreme Court, U.S.
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No. 1 07-706

IN THE

Supreme Court of the United States

OCTOBER TERM, 2007

JOHN MECCA , DEBORAH RAE LAMB,
Petitioner's,

vs.

UNITED STATES OF AMERICA,
Respondent.

On Petition for Writ of Certiorari to the Court of Appeal for the Second Circuit

PETITION FOR A WRIT OF CERTIORARI

JOHN MECCA and DEBORAH RAE LAMB
119 Whittier Drive,
Kings Park, NY, 11754
Telephone (631) 360-1557
November 14, 2007 PRO SE Petitioner's

QUESTIONS PRESENTED
ALL QUESTIONS AS FOLLOWS, ARE ASKED AS, A "PERSON", BEING A NATURALIZED BORN CITIZEN OF THE UNITED STATES UNDER THE 5TH AND 14TH UNITED STATES CONSTITUTIONAL AMMENDMENTS,

1.) Whether, a person receiving artificially induced torture pain as a virtual punishment by federal and associate state authorities, can be dismissed with "prejudice" is constitutional without public due process remedy under the federal Bill of Rights 4th, 5th, ,6th and 14th amendments in light of there being previous appeal case law decisions to the contrary.

2.) Whether, a person can be refused remedy by dismissal with prejudice in a civil complaint alleging they are under unconstitutional surveillance 24 hours a day for the rest of their life, loosing "all" rights to privacy under the federal Bill of Rights 1st and 4th amendment by federal and associate state authorities, where it is not constitutional without federal Bill of Right 5th and 14th amendment entitling a public due process remedy.

3.) Whether, federal and their associate state or local authorities actions of causing covert torture pain by remote control to a person not under physical restraint, done under legislative and policy allowances of secrecy to shield them from exposure as to the existence of such an ongoing investigation

under "qualified Immunity" color of law, ultimately used to hold Respondents free from liability from suit and including that such actions of secrecy are enforced also by gag orders given to a judge or justice preventing such exposure, can use such allowances to prevent a person from unmasking such unconstitutional actions by suit in a court, where such acts are in contravention of federal Bill of Rights 4th, 5th, ,6th and 14th amendments

4.) Whether Denton v. Hernandez (90-1846), 504 U.S. 25 (1992) where its causes of action related to separate incidents that were only partly witnessed by affidavit and culminated for that reason with the decision of dismissal with prejudice, can in contravention to the common law under the federal Bill of Rights 9th amendment be used to dismiss petitioners with prejudice, where their causes of action are "all" validated by witnessed affidavit and supported by admission of guilt by authorities.

5.) Whether an appeals court can dismiss petitioners complaint with prejudice, where it asked only one question of appellants in oral argument, being, what evidence did you provide in the lower court complaint that proves the guilty party is the United States Government, where Petitioner's answered, that the original complaint has an exhibit explaining how county police stated that the United States government was the actor in the attacks on appellants and that issue was stated in rehearing as well, but the court dismissed

appellants with prejudice nevertheless.

6.) Whether the Chambers v. Time Warner, Inc. 282 F. 3d 147, 152 (2d Cir.2002) judicial decision, that Time Warner documentation of legal authority took precedence over Chambers legal umbrella standing claims because he lacked documentation of a high enough authority, can be used to affirm lower courts dismissal with prejudice that makes moot petitioners entitlement to bring suit where that court ignored witnessed affidavit evidence of Petitioners standing in New York legislative Venue supporting their colorable claims causes of action, despite the fact it was known by the justices that New York county police unconstitutionally and with complicity abrogated petitioners federal and New York State constitutional rights to the Military branch of the United States Government's higher legal authority.

7.) Whether an appeals court can affirm a dismissal with "prejudice" of petitioners using FRCP Rule 12 (b)(6) citing uncolorable claims causes of action, where both lower courts ignored petitioners evidence exhibit about local police whom together with the military abrogated petitioners constitutional rights unconstitutionally by reporting to petitioner the identity of the attacker in the following exclamation, "it's the military and we (NYS county police) will get into trouble if we do anything to stop it". Where under the 5th, 9th and 14th federal and state constitutional amendments

the justices should have allowed the suit, where also it was a virtual habeas corpus in need of remedy at least by discovery precluding "prejudice".

8. Whether the military commission established by the President to try petitioner and others similarly situated for alleged war crimes in the "war on terror" is duly authorized under Congress's Authorization for the Use of Military Force (AUMF), Pub. L. No. 10740, 115 Stat. 224; the Uniform Code of Military Justice (UCMJ); or the inherent powers of the President and whether Petitioners here should avail themselves of similar remedy related to such legislation if they are discovered by the justices to be under such same status, where we ask to be told of it.

9. Whether petitioner and others similarly situated can obtain judicial enforcement from an Article III court of rights protected under the 1949 Geneva Convention in an action for a writ of habeas corpus challenging the legality of their detention by the Executive branch and whether Petitioners here should avail themselves of similar remedy related to such legislation if they are discovered by the justices to be under such same status, where we ask to be told of it.

PARTIES TO THE PROCEEDING

Pursuant to Rule 14.1, the following list identifies all of the parties appearing here and in the court. All parties below appear captioned on the cover page.

The Petitioner here and in the United States Court of Appeals for the District of Columbia are John Mecca and Deborah Rae Lamb

The Respondents here and in the United States Court of Appeals for the District of Columbia is the United States of America

Pursuant to Rule 29.6, Petitioner states that no parties are corporations.

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IN THE
SUPREME COURT OF THE UNITED STATES
Petitioners respectfully prays that a writ of certiorari issue to review the judgment below.
Under 28 U. S. C. § 1254(1)
OPINIONS BELOW

The opinion of the United States court of appeals appears at Appendix A and is, unpublished case # 06-5305.

The opinion of the United States court of appeals for Panel Rehearing appears at Appendix B to the petition and is, unpublished case # 06-5305.

The opinion of the United States District Court for the Eastern District of New York appears at Appendix C to the petition and is, published case # 06-3492.

JURISDICTION

The date on which the United States Court of Appeals decided my case was August 17, 2007. , and a copy of the order of dismissal with prejudice appears at Appendix A.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: October 10, 2007, and a copy of the order denying panel rehearing appears at Appendix B.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Denton v. Hernandez, 504 U.S. 25, 33 (1992) for failure to state a colorable claim. Petitioners state that citations application is an unconstitutional construction and extension beyond judicial prerogative where that court ignores the fact that all causes of action and colorable claims are based upon sworn affidavit, where albeit there is a litany not of unsupported allegations without evidence, but of petitioner's definitions of the effects of the torture level pain witnessed by affidavit that near lethal levels of electric and radio frequency energy are being used in attacking petitioners is equitably described from petitioners viewpoint to encroach upon the litany of malfeasance enumerated upon. Such that being the issue it is a fact that all evidence portrayed by the litany of malfeasance definitions were supported by sworn witnessed affidavit.

2. Chambers v. Time Warner, Inc., 282 F.#d 147 152 (2d Cir. 2002): for failure to state a colorable claim. Where those tow parties presented to the court that evidence documentation and the judge decided in favor of Time Warner based upon their validated documents having superior issues of authority. Petitioners state that citations application is an unconstitutional construction and extension beyond judicial prerogative where Petitioner's issue is that their validated documents of authority are the U.S. Constitution, U.S. Code, Common Law and New York

State Legislation that the Suffolk County Police abrogated and relinquished to the higher legal authority of the military being the U.S. Government without public due process; such abrogation of petitioners rights is contradicted by Ali Mari v. US Fourth Circuit Court of Appeals 06-7427, In re Oliver 333 U.S. 257, 278(1948).

3. [N]or [shall] cruel and unusual punishments [be] inflicted. U.S. CONST. amend. VIII and No State shall . . . deprive any person of life [or]liberty . . . without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. U.S. CONST. amend. XIV, § 1.

4. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. 42 U.S.C. § 1983.

5. Conscription or committing Appellants for a law or clinical investigation using pain without custody or interrogation is torture punishment without due process and violates the Patriot Act and 18 U.S.C. 242 and the 4th, 5th, 8th and 14th Constitutional Amendments and International

Covenant on Civil and Political Rights Article 7.

STATEMENT OF THE CASE

1. Regarding Denton v. Hernandez and Chambers v. Time Warner, as citations, where there are issues of differing ways those cases can be applied, it is of consequence for a judicial decision to weight the apparent differences between the case in question and the citation. The citation was used in an unconstitutional extension and construct beyond judicial prerogative to dismiss with prejudice a complaint having contradictory evidence that was ignored and of critical importance to constitutional issues of our day. For example regarding in particular the use of Patriot Act and other extreme legislations on the general public. Where the very issues of torture level pain used in investigations passes the standard of Johnson v. Glick test, that it shocks the conscience; that such unconstitutional treatment is being done to Petitioners and suffering both cruel and unusual punishment according to any established norms of our society. The long arm of the law must be the logic of the courts action as regards unconstitutional actions and violation of statute in its purest constitutional meaning. Petitioners have been surgically installed modified pacemaker devices like prisoner stun belts having energy sent remotely to them causing pain and proven by IEEE test in sworn witnessed affidavit exhibit in the original complaint, is a means of punishment and not investigation,

being unconstitutional and supported to be so by the common law:

a.) Prohibition of using electricity causing burning of the cells is considered cruel and unusual capital criminal punishments Wilkerson v. Utah.

b.) A punishment is cruel and unusual if it is excessive. Weems v. United States (1910). (Held.) Under color of law did violate constitutional rights in using invalid exercise of federal power Bell v. Hood, 327 U.S. 678 (1946).

c.) Where law enforcement officials are involved in conspiracy, victims are protected by the Fourth, Eighth, and Fourteenth Amendments. Furman v. Georgia, 408 U.S. 238 (1972).

d.) Excessive use of force may be punishable under 18 g. U.S.C. sections 241 and 242, discussed under article 2. to the United States Constitution and other statutes and Graham v. Connor, 490 U.S. 386 (1989). supports Petitioners and Davis v. Passman, 442 U.S. 228 (1979).

e.) Excludes Petitioners from the protection of federal statutes making them non citizens Trop v. Dulles 356 U.S. 86 (1958).

2. Denton v. Hernandez, 504 U.S. 25, 33 (1992) was cited by the appeals court in affirming the lower courts decision for failure to state a colorable claim and that claims made were based on meritless legal theory. Petitioners contend that citation is as an application of unconstitutional construction and extension beyond judicial prerogative, where that court ignores the fact that all of Petitioners causes of action and therefore as colorable claims are all based upon sworn affidavit. Where there is albeit a litany not of unsupported allegations without evidence, but of petitioner's definitions of the effects of the torture level pain witnessed by affidavit according to U.S. Code statutes; as they apply to relative effects. There are numerous rights and statutes that can be affected individually by different frequencies of electric and radio energy. Some energy frequencies heat where others can be used to cause deterioration of the body's cells, still others can cause mental confusion or sleep deprivation and even force a person to sleep; that torture level pain is involved of course they can shorten one's life or cause quick death from heart attack or stroke, not to mention the stress. So breaking a statute or deprivation of a right is related to the frequency methods used.

3. Where the citation of Denton v. Hernandez is cited by the appeals court to affirm dismissal, it did

not take into account the historical common law substantiating egregious acts that have occurred before, which, if such cases did not exist, a judge might find it could be "indisputable meritless legal theory" but such cases do illustrate the unlikely has happened in the past and Petitioner states is happening now; where the appeals court should have weighed such cases as issue together with Petitioners IEEE test information and admission by police of military complicity in the alleged attacks into the decision, to realize it was not and could "not" be an " indisputable meritless legal theory". Previous judicial decisions have been favorable to plaintiffs in similar cases where their was unconstitutional covert investigation! Those decisions were made in recognition that similar activities as described by Petitioners were not fantastical and delusional; but that victims of such deserve constitutional protection through decision, are cited as follows.

> a.) The right to determine what shall be done with your own body ...". Schloendorff v. Society of New York Hospitals, 211 N.Y. 125, 105 N.E. 92, 93 (1914).

> b.) As a general matter, in the United States, "[e]very human being of adult years or sound mind has a right to determine what shall be done with his own body ...". Schloendorff v. Society of New York Hospitals, 211 N.Y. 125, 105 N.E. 92, 93 (1914) and Furman v. Georgia, 408 U.S. 238 (1972).

4. Chambers v. Time Warner, Inc., 282 F.#d 147 152 (2d Cir. 2002): was cited for failure to state a colorable claim. Where the two parties involved presented to the court evidence documentation, the judge decided in favor of Time Warner based upon their validated documents having superior issues of authority. Petitioners state the citations application is an unconstitutional construction and extension beyond judicial prerogative where Petitioner's issue is that their witnessed affidavit validated evidence were ignored and documents of authority of the U.S. Constitution, U.S. Code, Common Law and New York State Legislation that the Suffolk County Police in complicity abrogated and relinquished to the higher legal authority of the military being the U.S. Government without public due process. This abrogation of Petitioners rights is contradicted by decisions In re Oliver 333 U.S. 257, 278(1948) and Ali Mari v. US Fourth Circuit Court of Appeals 06-7427.

5. Appeals Court Complaint Case # 06-5305 is a combined issue also being a virtual Habeas Corpus and conflicts with other federal appeal courts decisions thereby in similar circumstances; such as Al-Marri v. Wright 4th Cir. Court of Appeals Case # 06-7427, EL- Masri v. United States 4th Cir Court of Appeals Case # 06-1667 and "In re Oliver 333 U.S. 257, 278(1948).

6. The comparison of Petitioners to Al-Marri v. Wright is where Al-Marri is granted Habeas Corpus; albeit Petitioners are not being held, they have

witnessed sworn affidavit illustrating an admission by police that the a branch of the government being the U.S. Military was the culprit of the attacks.

7. Respondents violated the Constitution with a culpable state of mind by a sentence of cruel and unusual punishment without public due process, in a criminal conspiracy of premeditated murder by torture level pain. The original complaint mentions no judicially acting person mooting the issue of Respondents application towards immunity. Also their warrants and affidavits that Petitioners here allege must they believe, contain false facts and are hidden from Petitioners, preventing Due Process. Therefore Respondents prosecutorial and qualified immunities in "Protect America Act of 2007" Section 105 B-(L) are void by their fraud and malfeasance, and they are liable for suit beyond Kalina v. Fletcher 96-792, 522 U.S. 118 (1997) and Houston v. Partee 978 F. 2d 362 (7th Cir. 1992) also Respondents are also liable for suit for sabotaging Petitioners Securities and Exchange Commission IPO S-1 Filing.

a.) Petitioners will not need to encroach into "State Secrets Privilege" during a trial, because our original complaint has sufficient public domain evidence and exhibits ACLU v. NSA 06-2095/2140.

b.) Conscription or committing Petitioners for a law or clinical investigation using pain without custody or interrogation is torture

punishment without due process and violates the Patriot Act and 18 U.S.C. 242 and the 4th, 5th, 8th and 14th Constitutional Amendments and International Covenant on Civil and Political Rights Article 7. and In re Oliver 333 U.S. 257, 278(1948) and Ali Mari v. US Fourth Circuit Court of Appeals 06-7427. Where also it is unconstitutional to virtually hold a U.S. Citizen under patriot act legislation in abeyance of federal trial.

8. Respondents in the appeal court did cite Bivens v. Six Unknown Named Agents 403 U.S. 388 "1971". and is an admission of investigating Petitioners which validates the original complaints causes of action. That admission also contradicts the original courts dismissal. Though taking place during the appeal period of the case in question, can and should be understood to have been given as an issue in answer to Petitioners complaint, in that it is a part now, of discovery; as if the complaint has been allowed into the lower district court. That by such a fact may now be observed as an admission of guilt as to the allegations made by Petitioner. That such participation is admitted to, Petitioner contends, is in contradiction to the appeals court decision where there is allegation of torture level pain that can potentially cause death.

9. Our October 10th, 2007 petition for rehearing was denied and leaves Petitioners without remedy. Where that rehearing as Appendix B focused upon

the issue of the Suffolk County Police in complicity abrogating Plaintiffs New York State and Federal Constitution Civil Rights to the higher Authority of the United States Government. When upon telling those police of attacks by high tech weapons from neighbors, Petitioner was told inside the fourth precinct at the front desk where six officers, one being a woman and five male officers where one sitting behind the computer asked for the name and address and upon looking into the computer did say aloud "It's the military and there is nothing we can do about it or we will get into trouble." That both the lower court and appeals court ignored this issue is compounded by the rehearing petition being denied leaves Petitioners here without remedy regarding their original complaint that also is a virtual Habeas Corpus.

10. The foundation construct of the original complaint in its compensation asks that whether the attacks from United States Government are of any form, points out that they are punishment in Petitioners view. Such that is the case in this current day and age of enemy combatants, Petitioners under restraint can be described in comparison to prisoners with Stun Gun Belts. Petitioners are virtual enemy combatants under remote control restraint without the advantage of such as Ali Mari v. US Fourth Circuit Court of Appeals 06-7427 and RUMSFELD V. PADILLA (03-1027) 542 U.S. 426 (2004) and Khaled El-Masri v. United States of America No. 06-1613. Where those persons are able to have Habeas Corpus

applied because the fact they are being held is discernible and in need of legal remedy where we do not have the advantage of being held for recognition that unconstitutional issues exist because the torture device is for all purposes invisible, due "State Secrets Privileges" being involved. Such privileges is preventing any mention of our plight; we are at the mercy of the Supreme Court to grant us remedy; because as we see it the Supreme Court is the only authority that can oppose the higher legal framework responsible for our plight in being attacked as we are. We are in need for the court to admit that there is indeed actions against us and that we have such an unconstitutional status on us.

11. That American citizens can covertly be designated enemy combatants and have no remedy is unconstitutional. Especially when compared to the availability of a least some legal effort which officially held persons can obtain.

12. We have indicators that we have a status similar to being an enemy combatant under investigation. Where if some admission by the United States government as to our actual status were to come out, it would further support the witnessed affidavit evidence that the police said it was the military which is the United States Government, not to do so is unconstitutional where we have standing. However the "States Secret Privileges" and various portions of the Patriot Act unconstitutionally prevent a sufferer of such covert status of learning of it to

take effective legal action for remedy and require the Supreme Court to intercede.

13. As stated Petitioners believe they have been designated enemy combatants. As a result of that suspicion which cannot positively be ascertained by Petitioners, due to "State Secrets Privileges", the court is asked with our request and permission to review the record for all and any references to a status other than our having full constitutional rights, even where it is human experimentation or other form of investigation. That upon such view of the record to weight the issue, that our original complaint albeit a civil case is according to its compensation portion asking for a stop to the torture level pain and a release of records pertinent to Petitioners for rectification of these unconstitutional actions. As a parallel issue it is also asked that where the court upholds the constitutional rights of Petitioner's, that their decision reflect a remedy by finding for them so as to allow a full fleshing out of the issues in the lower court.

REASONS FOR GRANTING THE WRIT WHERE LEGISLATION ALLOWS THE UNITED STATES GOVERNMENT TO CONTINUE TO USE TORTURE PAIN AS A VIRTUAL EXECUTION DURING INVESTIGATION

1. This case represents the issues on which the Court's guidance is needed for the public at large to be protected where their constitutional rights are safeguarded..

2. Ongoing U.S. Governmental investigations affording "State Secrets Privilege" where National Security is potentially at risk and or "Qualified Immunity" prevents a court from exposing such activities despite the "standing" of a party even where injurious torture level pain is used must be prevented by judicial decision. Persons under the constitution dismissed with prejudice without there being actual technical merit deficiency of a plaintiffs complaint, during such investigations is unconstitutional as it constitutes actual punishment needs to be defined by this court by judicial decision to prevent such occurrences in lower courts. There are many persons reporting such activities and flies in the face of constitutional rights existing today and require codification as to such described investigations being permitted where there is no actual physical restraint; such issues where the public at large are at risk of befalling the same treatment needs to be addressed by this court to stem loss of respect for authority and preclude a tidal wave

of litigation; as well as tending to the unconstitutional encroachments of civil rights of persons by government in egregious ways.

3. Where such investigations as Petitioners describe being done to them and are a result of being designated a person under "Patriot Act" enemy combatant being investigated, there is by requirement a need for decision by this court of last resort for remedy, to define the limits of power such laws, legislation and policy can have over persons under the 5th and 14th Constitutional Amendments; where under them they are entitled to public due process and other rights until now. This highly controversial issue begs constitutional codification under consideration of the Johnson v. Glick test, as it shocks the conscience that such unconstitutional treatment is being done to Petitioners whom are suffering both cruel and unusual punishment according to any established norms of our society. Where the long arm of the law must be the logic of the courts action as regards unconstitutional actions and violation of statutes and the Patriot Acts constitutional expected limits and meaning.

4. If this writ is denied, a person covertly implanted with a ground positioning system device will result in not only allowing unconstitutional activity to be officially sanctioned by being unchecked, but will effectively eliminate all rights to privacy under the federal Bill of Right 1st, 4th, 5th , 6th and 9th amendments as if they do not exist from this

day forward.

5. If this writ is denied, a person covertly implanted with a torture level pain inducing system device, being virtually a punishment sentence in allowing such activity to go unchecked, will effectively eliminate all rights to Public Due Process or even Trial of any kind and also under the federal Bill of Rights the 4th, 5th 6th and 9th amendments as if they do not exist from this day forward.

6. If this writ is denied, a person covertly implanted with a torture level pain inducing system device, being virtually a punishment sentence in allowing such activity to go unchecked, will effectively eliminate all rights to Habeas Corpus under the federal Bill of Rights the 4th, 5th ,6th and 9th amendments as if they do not exist from this day forward.

7. Methods of virtual execution by investigation can be challenged and the actions of Respondent needs to be examined by the Supreme Court with regard to extant common law that contradict the acts themselves of causing extreme torture pain that can result in death, this according to the Ninth Circuit Court of Appeals has determined that a § 1983 action is in fact a proper vehicle by which to challenge a method of execution. Beardslee v. Woodford, 395 F.3d 1064, 1068 (9th Cir. 2005).

8. That any citizen as a person can be effectively conscripted is in contravention to the 2nd Amendment where, that the military and police are virtually quartered in ones home by being inside the persons body; such issue must be decided by the court

9. The Supreme Court, the court of last resort cannot permit activities where innocent citizens are picked from a list in secret and labeled, which takes away their rights as a citizen, to even have a chance of a trial or fight in a court for their life.

> Their due process rights stripped away, not even notified of being attacked; means in fact no rights at all.
>
> Not only are they tried, and sentenced to torture in absentia; they are forced to appear mentally ill and unstable. The fortunate who discover their circumstance are called crazy for even trying to get the matter of illegal implantation and torture into the courts.
>
> The judges touting that the victims case is wholly fantastical, when in essence it's not believed because it is so inhumane that nobody wants to believe or admit that it could be going on here in AMERICA.
>
> The right to live as well as sterilization, abortion, eugenics, intelligence and state of health are all at issue where they can all be

managed covertly even without a person knowing, where it virtually reduces us to the status of farm animals to the slaughter.

If allowed to continue by failing conscience and failing law, it will be by those that allowed it to happen.

We the people are no more than lab rats and farm animals where a variety of frequencies are causing single or multiple effects. From heating to decrease lifespan, heating and radio frequency to break down the cell structure to cause specific disease parameters, to heat stroke conditioning causing extreme pain, electric effects combined with radio energy resonance to cause lethargy or mental confusion or forced unconsciousness to sleep deprivation; all as a force to strip the body and nervous system to the breaking point resulting in a such effects as heart attack and stroke or syndromes and disease are our future. We in this country have been served well by our means of laws under God to make our decisions. It is up to our acts now to insure that the promise of God and man are upheld in the future that for this certiorari (volumus) (we wish) to be informed. This court must inform the future that there will be one, where you have the power to make it so!

The Supreme Court has here at issue, a writ of certiorari, that has merits that go to the very heart of its purpose.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

John Mecca, November 14, 2007
JOHN MECCA

Deborah Rae Lamb, November 14, 2007
DEBORAH RAE LAMB

PRO SE FOR Petitioner's
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DOCKET NO. _____

IN THE

Supreme Court of the United States

OCTOBER TERM, 2007

JOHN MECCA & DEBORAH RAE LAMB,
Petitioner's,

vs.

UNITED STATES OF AMERICA,
Respondent.

PROOF OF SERVICE
pursuant to 28 U. S. C. § 1746.

I, John Mecca, do swear,

or declare that on this date, November 14, 2007,

I, Deborah Rae Lamb, do swear,

or declare that on this date, November 14, 2007,

,as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED and PETITION FOR A WRIT OF CERTIORARI on

each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as Commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are:

Solicitor General of the United States
Paul D. Clement
Room 5614
Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530-0001

(Signature Petitioner John Macca

(Signature Petitioner Deborah Rae Lamb

APPENDIX'S A, B, C

APPENDIX A

(Page 1 of 5)

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLANT PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATA BASE WHICH IS PUBLICLY ACCESSIBLE WIHTOUT PAYMENT OF FEE (SUCH AS THE DATA BASE AVAILABLE AT HTTP://WWW.CA2.USCOURTS.GOV). IF NO COPY IS SERVED BY REASON OF THE AVAILABLITY OF THE ORDER ON SUCH A DATA

BASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATA BASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the city of New York, on the 17th day of August, two thousand and seven.

PRESENT:

UNITED STATES
COURT OF APPEALS
Filed AUG 17 2007
SECOND CIRCUIT

HON. GUIDO CALABRESI,
HON. REENA RAGGI,
HON. PETER W. HALL,
Circuit Judges.

John Mecca, Deborah Rae Lamb,
Plaintiff's-Appellants,

Nos. 06-5305-c,07-2621-op

The United States Government, and all its entities Federal, State, Local and and including all direct and or indirect government liaisons,

Defendants-Appellees.

For Plaintiffs-Appellants:

JOHN MECCA,
DEBORAH RAE LAMB,
pro se, Kings Park, N.Y.

For Defendants-Apellees:

DIANE LEONARDO BECKMANN, Assistant Untied States Attorney *for* Roslynn R. Mauskopf, United States Attorney for the Eastern District of New York (Varuni Nelson, *on the brief),* Central Islip, N.Y.

Appeal from the United States District Court for the Eastern District of New York (Seybert, J.).

UPON DUE CONSIDERTION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court granting summary judgment be hereby AFFIRMED.

Plaintiffs-Appellants John Mecca and Deborah

Rae Lamb appeal from the October 4, 2006

Memorandum and Order of the United States District Court for the Eastern District of New York (Seybert,J.) dismissing their complaint *sua sponte* pursuant to Fed. R. Civ. P. 12 (b)(6). Appellants also petitioned for a writ of mandamus, seeking to set an immediate, or substantially earlier, calendar date for oral argument in their appeal and seeking access to this Court:s records concerning the denial of their previous motions to expedite their appeal. On July 13, 3007, this Court issued an order referring the mandamus petition to this panel. We assume the parties' familiarity with the facts, procedural history, and issues on appeal.

The district court dismissed the complaint because it was "replete with fantastic and

delusional scenarios." we review such 12 (b)(6) dismissals *de novo, Chambers v. Time Warner, Inc.*,282F.3d 147,152(2d Cir.2002), and conclude that Appellants' claims were properly dismissed for failure to state a colorable claim. *See Denton v. Hernandez,* 504 U.S. 25, 33 (1992).

Accordingly, the judgment of the district court dismissing Appellants' complaint is AFFIRMED, AND Appellants' motion for a writ of mandamus is DENIED. Their motion to file a late reply brief is GRANTED, and all other outstanding motions in these cases are DENIED.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of the Courthouse

By:"s/ Lucille Carr"

APPENDIX B

(Page 1 of 2)

UNITED STATES COURT OF APPEALS FOR THE
SECOND CIRCUIT
THURGOOD MARSHALL U.S. COURT HOUSE
40 FOLEY SQUARE, NEW YORK, N.Y. 10007

Catherine O'Hagan Wolfe
CLERK OF COURT

Date:
Docket Number: 06-5305-cv
Short Title: Mecca v. United States of America

DC Docket Number: 06-cv-3492
DC: EDNY (CENTRAL ISLIP)
DC Judge: Honorable Joanna Seybert

As stated Term of The United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moyniham United States Courthouse, 500 Pearl Street, in the City of New York, on the 9th.. day of October two thousand seven.

Present:

UNITED STATES
COURT OF APPEALS
Filed OCT 10 2007
SECOND CIRCUIT

Hon. Guido Calabresi,
Hon. Reena Raggi,
Hon. Peter W. Hall,

APPENDIX B

CIRCUIT JUDGES.

John Mecca, Deborah Rae Lamb,
Plaintiffs-Appellants,

v. Docket No. :06-5305 -cv

The United States Government, and all its entities Federal,State, Local and including all direct and or indirect government liaisons,
Defendants-Appellees.

A petition for panel rehearing having been filed herein by Appellants John Mecca and Deborah Rae Lamb,

Upon consideration thereof, it is

ORDERED that said petition be and it hereby is DENIED

For the Court:
Catherine O'Hagan Wolfe, Clerk

By:"s/"_____
Motion Staff Attorney

APPENDIX C

(Page 1 of 10)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----------X
JOHN MECCA, DEBORAH RAE LAMB,
Plaintiffs,

-against-

MEMORANDUM AND ORDER
06-CV-3492(JS)(WDW)

THE UNITED STATES GOVERNMENT,
and allits entities Federal, State, Local
and including all direct or indirect
government liaisons,
Defendants.
----------X

Appearances:

For Plaintiffs:

John Mecca, pro se
Deborah Rae Lamb, pro se
119 Whittier Drive
Kings Park, New York 11754

For Defendants:

Diane C. Leonardo-Beckmann,
Esq. United States Attorneys'
Office 610 Federal Plaza
Central Islip, New York 11722

SEYBERT, District Judge:

Pending before the Court is pro se Plaintiffs' 112-page Complaint filed on July 17, 2006. For the reasons below, the Court dismisses the Complaint with prejudice.

BACKGROUND

To the best that this Court can parse from Plaintiff's unclear Complaint, the Plaintiffs allege that the Defendants assault them on a daily basis and deprive them of certain rights. Some offenses Plaintiffs complain of are invasion of privacy, fraud, torture, and "premeditated attempted murder." ("Compl.") ¶ 1.) The Complaint is rift with legal jargon and legalese. In several of the paragraphs of the Complaint, Plaintiffs sets forth a litany of

accusations against the Defendants without factual support.

In the opening paragraphs of the Complaint entitled the] "Nature of Action," Plaintiffs state

The "Federal Issues" before this Court are that Defendant has committed various offenses against Plaintiffs, those offences being invasion of privacy, FOIA APPEALS, criminally negligent omission, fraud, deprivation of rights, criminal conspiracy, torture, virtual kidnapping, human experimentation without consent, assault, premeditated attempted murder. Proven by evidence of deadly electric current, impossible to occur naturally and continually occurring in Plaintiffs bodies; where the detection and effect of the energy is by IEEE and Center for Disease Control standards.

(Compl. At 1.)

In another paragraph of the Complaint, Plaintiffs state

Defendants are guilty of keeping aide from reaching Plaintiffs. The following is proven prima facie evidence of Defendants having an "exclusive

capability politically" in that no other entity could effect containment so completely, in keeping officials from investigating Plaintiff's complaints . . . . Such power and authority of Defendants is borne of officially conducted fraud where the issues as a whole are weighed in accordance with the true meaning and spirit of the legislation breeched; where various Defendants as the issue here is stated acted on behest of official Defendant policy, "Title 18, U.S.C., Section 1001 Fraud and False Statements." Such comprehensive fraud Defendant has officially perpetrated precludes Defendant from invoking immunity under the Federal Tort Claims Act ("FTCA") or the "Tucker Act" absolving Plaintiffs from having to satisfy the procedural requirements of both; as such requirements cannot exist where Defendants fraud is the basis for all actionable causes of complaint by Plaintiffs of conspiracy to "commit fraud under and by official authority". Upon a foundation of fraud what can be lawful thereafter.

(Compl. At 51.)

Plaintiffs seek injunctive relief and monetary damages.

(Compl. 111-12.)

DISCUSSION

Because Plaintiffs proceed pro se, the Court reads the Complaint liberally. See Haines v. Kerner, 404 U.S. 519, 520-21, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972) (stating that pro se complaints are held to "less stringent standards than formal pleadings drafted by lawyers."); McEachin v. McGuinnis, 357 F.3d 197, 200 (2d. Cir. 2004) ("[W]hen the plaintiff proceeds pro se, .. . a court is obliged to construe his pleadings liberally,particularly when they allege civil rights violations."). At this stage of a proceeding, the Court must weigh in favor of a plaintiff the factual allegations in the complaint. See Denton v. Hernandez, 504 U.S. 25, 32, 112 S. Ct. 1728, 118 L. Ed. 2D 340 (1992). However,

the Court may dismiss a claim if the Court finds it is based on "indisputably meritless legal theory." Id.

District courts may dismiss a frivolous complaint sua sponte pursuant to Rule 12(b)(6) where the claims are found to be fantastic and delusional. See Tyler v. Carter, 92-CV-8658, 1993 U.S. Dist. LEXIS 15735 (S.D.N.Y. Nov. 5, 1993) (dismissing fee-paid complaint wherein plaintiff alleged that defendants ,including Jimmy Carter, Bill Clinton and Ross Perot, were responsible for murdering 10 million black women and selling their bodies for meat and leather products), aff'd without opinion, 41 F.3d 1500 (2d Cir.1994).

The in forma pauperis statute

> accords judges not only the authority to dismiss a claim based on an indisputably

> meritless legal theory, but also the unusual power to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless. Examples of the latter class . . . are claims describing fantastic or delusional scenarios, claims with which federal district judges are all too familiar.

Denton v. Hernandez, 504 U.S. 25, 32, 112 S. Ct. 1728, 118 L. Ed. 2d 340 (1992) (quoting Neitzke v. Williams, 490 U.S. 319, 327-29, 109 S. Ct. 1827, 104 L. Ed. 2d 338 (1989)) (internal quotation marks omitted). "[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." Denton, 504 U.S. at 33. The Second Circuit has adopted this analysis even when the plaintiff is

not a prisoner or has paid the required filing fee. See Fitzgerald v. First E. Seventh St. Tenants Corp., 221 F.3d 362, 364 (2d Cir. 2000) (noting that "district courts are especially likely to be exposed to frivolous actions, and thus have an even greater need for inherent authority to dismiss such actions quickly in order to preserve scarce judicial resources"). As an initial matter, the Court notes that the Complaint does not name any specific Defendants. The listed Defendants in the caption of the Complaint are "The United States Government and all its entities Federal, State, Local and including all direct and indirect government liaisons." (Compl. at 1.) Whether these entities can be sued is questionable. Moreover, this Court

finds that the Complaint is replete with fantastic and delusional scenarios. This warrants dismissal of the Complaint with prejudice. See Fitzgerald, 221 F.3d at 363; Tyler, 1993 U.S. Dist. LEXIS 15735, at *540 ("A plaintiff asserting fantastic or delusional claims should not, by payment of a filing fee, obtain a license to consume limited judicial resources and put defendants to effort and expense.").

CONCLUSION

For all of the reasons stated herein, the Complaint is DISMISSED with prejudice. The Clerk of the Court is ordered to close this case.

SO ORDERED.

"s/ JOANNA SEYBERT

Joanna Seybert, U.S.D.J

Dated: Central Islip, New York
October 4, 2006